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November 19, 2014

**By ECF**
Magistrate Judge Ramon E. Reyes, Jr.
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

**Re: Mojica, et al., v. City of New York, et al.,**
**14 CV 2399 (PKC) (RER), and all consolidated cases**

Dear Judge Reyes:

I represent the plaintiffs in the actions consolidated under the above case, and write to respectfully request that the Court compel defendants to produce responses to plaintiffs' First Set of Interrogatories and Demand for Documents. These demands were served on defendants on October 9, 2014. Despite our best efforts, defendants have failed to respond or indicate whether or when they plan to respond to the outstanding demands.

These four consolidated cases concern the arrest of the thirteen plaintiffs at a home in Brooklyn. The arrests either ended in ACDs, declined prosecutions, or were voided. The parties appeared before Your Honor on September 24, 2014, for an initial conference. On October 9, plaintiffs in all four cases served a single set of discovery demands on defendants.[1] Defendants' responses were due by November 10. Meanwhile, on October 21, I presented defense counsel with a detailed settlement demand. No response to either the discovery demands nor the settlement proposal have been received as of yet.

On November 3, I wrote to defense counsel to remind them that their responses were coming due. In view of the scope of the case, I suggested that plaintiffs would be willing to agree to extend defendants' time to respond to plaintiffs' discovery requests if settlement discussions were ongoing. However, any such extension was expressly conditioned on the parties "actually having real discussions."

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[1] Mary O'Flynn, Okwede Okoh, and Jennifer Schuman, have each filed notices of appearance for the defendants. The discovery demands were served on SACCs Okoh and Schuman and my subsequent communication has been with Ms. Okoh.

Counsel responded on November 6, saying simply that they needed more time for discovery, were working on an offer, and that she would call me to discuss. Unfortunately counsel did not call me and my attempt to reach her was unsuccessful.

On November 12, I wrote again to counsel, advising defendants that we had not heard from them and that we would have no choice but to move to compel if we did not receive either discovery responses or a substantive settlement offer. Counsel responded on November 14, stating that she had been out of the office for a few days, but that she would call me later in the day. I responded by agreeing not to take any action pending her call.

While not discussed in my emails, plaintiffs also noticed defendants' depositions for various dates in November 2014. For obvious reasons, these depositions could not proceed and remain adjourned *sine die*.

We have not heard further from defendants in any regard. Accordingly, we ask that the Court direct defendants to produce full and complete discovery responses within a week from the date of the Court's order. We further note that as defendants' responses are now overdue, all objections are waived. *See, e.g.*, *Silva v. Cofresi*, 2014 WL 3809095, at *6 (S.D.N.Y. Aug. 1, 2014); *Parlin Funds LLC v. Gilliams*, 2012 WL 5265554, at *1 (S.D.N.Y. June 15, 2012) report and recommendation adopted, 2012 WL 5258984 (S.D.N.Y. Oct. 23, 2012); *Senat v. City of New York*, 255 F.R.D. 338, 339 (E.D.N.Y. 2009); *Sherwin Williams Co. v. Spitzer*, 2005 WL 2128938, at *16 (N.D.N.Y. Aug. 24, 2005).

For the foregoing reasons, plaintiffs respectfully request that the Court issue an order compelling the defendants to promptly produce full and complete responses to plaintiffs' First Set of Interrogatories and Demand for Documents, with all objections deemed waived.

Thank you for your kind attention to this issue.

Respectfully submitted,

/s/

Michael Lumer

cc: All counsel of record (by ECF)